

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MEGHAN COLE,

Plaintiff,

v.

SHANNDAAH BURKHOLDER,

Defendant.

Case No. 2:24-cv-0792-DC-JDP (PS)

FINDINGS AND RECOMMENDATIONS

On February 28, 2025, I granted plaintiff's application to proceed *in forma pauperis* and ordered her to submit documents for service of process to the United States Marshal within sixty days. ECF No. 4. I also ordered plaintiff to file declaration stating the date on which she submitted the required documents to the U.S. Marshal. *Id.* Plaintiff failed to comply with that order. Accordingly, on November 19, 2025, I order plaintiff to show cause why this action should not be dismissed for failure to prosecute and failure to comply with court. ECF No. 6. The deadline has passed, and plaintiff has not filed responded to the court's order.

The court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal. *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000); *see* Local Rule 110 ("Failure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of the Court.").

1 A court may dismiss an action based on a party's failure to prosecute an action, failure to
2 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54
3 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258,
4 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order to file an amended
5 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to
6 comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v.*
7 *U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court
8 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of
9 prosecution and failure to comply with local rules).

10 In recommending that this action be dismissed for failure to comply with court orders, I
11 have considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s
12 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
13 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.”
14 *Ferdik*, 963 F.2d at 1260-61 (citation omitted).

15 Here, plaintiff failed to respond to the order directing her to show cause why this action
16 should not be dismissed. *See* ECF No. 6. Therefore, the public interest in expeditious resolution
17 of litigation, the court’s need to manage its docket, and the risk of prejudice to the defendants all
18 support imposition of the sanction of dismissal. Lastly, my warning to plaintiff that failure to
19 obey court orders will result in dismissal satisfies the “considerations of the alternatives”
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 F.2d at 1424.
21 The November 19, 2025 order expressly warned plaintiff that failure to comply with court orders
22 would result in dismissal. ECF No. 6. Plaintiff had adequate warning that dismissal could result
23 from her noncompliance. I therefore find that the balance of factors weighs in favor of dismissal.

24 Accordingly, it is hereby RECOMMENDED that:

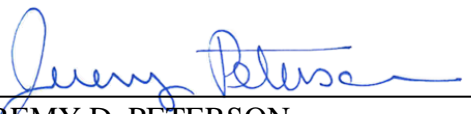
25 1. This action be dismissed without prejudice for failure to prosecute and failure to
26 comply with court orders.

27 2. The Clerk of Court be directed to close the case.
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1 These findings and recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of
3 service of these findings and recommendations, any party may file written objections with the
4 court and serve a copy on all parties. Any such document should be captioned "Objections to
5 Magistrate Judge's Findings and Recommendations," and any response shall be served and filed
6 within fourteen days of service of the objections. The parties are advised that failure to file
7 objections within the specified time may waive the right to appeal the District Court's order. *See*
8 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
9 1991).

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11 IT IS SO ORDERED.

12 Dated: December 16, 2025

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14 JEREMY D. PETERSON
15 UNITED STATES MAGISTRATE JUDGE
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